

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 14 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SHAWN PHILLIPS,

Plaintiff - Appellant,

v.

CITY OF LOS ANGELES; PERSONNEL
DEPARTMENT OF THE CITY OF LOS
ANGELES; LOS ANGELES CITY FIRE
DEPARTMENT,

Defendants - Appellees.

No. 04-56645

D.C. No. CV-02-06282-WMB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
William Matthew Byrne, Senior Judge, Presiding

Submitted March 10, 2006^{**}
Pasadena, California

Before: HALL, THOMAS, and TALLMAN, Circuit Judges.

Shawn Phillips alleges that the Los Angeles Fire Department (LAFD)
discriminated against him on the basis of race and ethnicity in violation of Title VII

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Phillips appeals the district court's grant of summary judgment in favor of the City in which the court found that the LAFD had no knowledge of Phillips' race and therefore could not have discriminated against Phillips on that basis. We have jurisdiction pursuant to 28 U.S.C. § 1291 and affirm.

A plaintiff lacking direct evidence of discrimination must produce "specific and substantial" evidence showing that an adverse employment action was likely motivated by an impermissible motive, *Coghlan v. Am. Seafoods Co.*, 413 F.3d 1090, 1095-96 (9th Cir. 2005), or that the employer's stated reason is "unworthy of credence," *Godwin v. Hunt Wesson, Inc.*, 150 F.3d 1217, 1222 (9th Cir. 1998). Phillips cannot show that the LAFD considered Phillips' race in the hiring process. He also cannot show that other applicants were preferred on the basis of their race. Thus, Phillips has failed to provide substantial and specific evidence of discrimination and the district court properly concluded that Phillips did not raise a genuine issue of material fact.

AFFIRMED.